

KEVIN L. WARD
COMMISSIONER



Copy
BRAD HENRY
GOVERNOR

STATE OF OKLAHOMA
DEPARTMENT OF PUBLIC SAFETY

July 21, 2009

Trooper Daniel Martin
RR 4 Box 217-B
Okemah, OK 74859

RE: Notice of Disciplinary Action

Trooper Martin:

On May 24, 2009, you responded to assist Okfuskee County Sheriff's Deputy Christopher Cole who was requesting assistance on a traffic stop he had made with a possible stolen vehicle in Paden, Oklahoma. While westbound on State Highway 62, with emergency lights and siren activated, you observed what you believed to be a failure to yield violation on the part of a Creek Nation EMS. This ambulance was also westbound on State Highway 62 with no emergency equipment activated. You contacted the ambulance on the radio and advised them to be more observant with their rear-view mirrors.

You pulled up to assist the deputy and observed the same Creek Nation ambulance pass by. You have stated you observed the driver of the ambulance, Paul Franks, extend his left hand and raised his middle finger. You then proceeded to initiate a traffic stop on the ambulance. This traffic stop was captured on your in-car video camera. A portion of the traffic stop was also captured by a civilian on a cellular telephone video camera.

During this traffic stop you were involved in an altercation with a paramedic identified as Maurice White. Mr. White was told by you that he (White) was under arrest for obstructing. The video footage shows Mr. White obstructing and/or resisting arrest. A few seconds into this traffic stop, you were informed that a patient was being transported to Prague Hospital. A second altercation arose on the passenger side of the ambulance as you attempted for a second time to arrest Mr. White.

After some delay you made the decision to allow Mr. White to proceed to the hospital with his patient. You contacted the Okfuskee County Assistant District Attorney, Maxey Reilly, about the incident and District Attorney Reilly told you to write a report and she would consider issuing a criminal arrest warrant. You later issued a written warning to the Mr. Franks for Failure to Yield. A case report was filed with the Okfuskee County District Attorney's Office charging Mr. White with the violation of Oklahoma Title 21.540, Obstruct a Public Officer in the Discharge of his Duties, and Title 21.649 Assault and Battery Upon a Police Officer.

A review of the videotape supports your belief that probable cause existed to stop the ambulance for failure to yield to an emergency vehicle. The ambulance had no emergency equipment activated and there was no indication that the ambulance had any patient on board. There was legal basis to stop the ambulance. As you approached the ambulance to conduct the traffic stop,

Mr. White, uninvited, attempted to intervene and improperly interfered with your attempt to conduct legal business with the driver of the ambulance, conduct for which you advised Mr. White to cease or be arrested. When Mr. White failed to heed your warnings and continued to interfere with your attempt to conduct the traffic stop, you were legally authorized to arrest Mr. White, including the use of reasonable means to make the arrest as a result of his resistance, for interfering with a police officer. However, while you were legally justified in stopping the ambulance and subsequently attempting to arrest Mr. White, your decision making at the scene and the manner in which you conducted yourself are not representative of conduct expected of an Oklahoma Highway Patrol trooper.

-First, during the initial stages of the confrontation you were twice advised that a patient was on board the ambulance and that the ambulance was headed to the hospital. Although you have stated that you did not hear it the first time you were told, you did hear the statement about the patient the second time it was made. Your reaction was that the ambulance was not running in an emergency status and therefore made no inquiry as to the medical status of the patient. Furthermore, in spite of the knowledge of the patient and the length of time of the stop, you made no inquiry of the patient or any other person regarding the status or welfare of the patient on board the ambulance. While both members of the EMT team may have abandoned their patient during this time and failed to provide you specific information regarding the patient, your lack of inquiry into the welfare of the patient cannot be excused.

Second, while you were justified in attempting to place Mr. White under arrest, the situation could have, and should have, been handled differently. Clearly, Mr. White interfered with your contact with the driver and had that interference not occurred, the traffic stop could have been concluded in a very short time. However, once you were advised of the patient, it would have been reasonable and more appropriate to immediately allow the ambulance to continue to the hospital, follow the ambulance and conclude your business at the hospital after the patient's care had been transferred to appropriate personnel. Furthermore, on at least one occasion, you withdrew from the altercation only to place yourself in a position for a subsequent altercation with Mr. White. Since you knew the EMT team and the ambulance's destination, any necessary action could have been accomplished at the hospital or later.

Finally, your manner when approaching Mr. Franks, the driver of the ambulance, was unnecessary and unprofessional. Your demeanor and language at the scene was also unprofessional. This is not conduct expected of an Oklahoma Highway Patrol trooper.

OHP Operations Manual, Chapter 1, Personnel, Subchapter 2, Conduct, Subparagraph 1.2.3, Specific Rules of Conduct, Section B.1, Conduct Unbecoming An Officer which states:

"Conduct unbecoming an officer shall include that which brings the Department into disrepute, or reflects discredit upon the officer as a gentleman and a member of the Patrol, or which impairs the operation or efficiency of the Department or officer. No member shall use abusive, profane, intimidating, threatening, or belittling language toward another member."

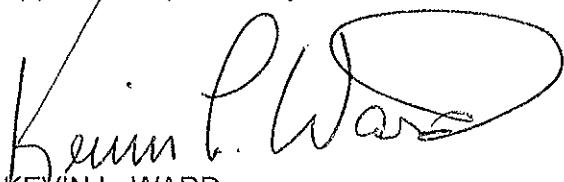
Oklahoma Merit Rules for Employment as specified in 455:10-11-14 and as provided under Oklahoma State Statute Title 74:840-6.5, Causes for discharge, suspension without pay or involuntary demotion, states:

"Any employee in the classified service may be discharged, suspended without pay for not to exceed sixty (60) calendar days, or demoted by the agency, department, institution, or officer by whom employed, for misconduct, insubordination, inefficiency, habitual drunkenness, inability to perform the duties of the position in which employed, wilful violation of the Oklahoma Personnel Act or of the rules prescribed by the Office of Personnel Management or by the Oklahoma Merit Protection Commission, conduct unbecoming a public employee, conviction of a crime involving moral turpitude, or any other just cause [74:840-6.5]."

A review of your personnel file reveals no previous discipline. However, the actions involving your conduct and disregard for the welfare of the patient justify severe discipline. Based on agency comparative discipline and the nature of your actions, you are hereby suspended without pay for five (5) working day beginning on Wednesday, July 22, 2009 and concluding at the end of the work day on Tuesday, July 28, 2009. You will also report for an anger assessment. Based on that assessment, further training and/or education may be required by the Department.

This suspension is imposed both as discipline and in an effort to correct this type of behavior. In accordance with state law and the agency's progressive discipline policy, you are advised that any further action of this type will result in more severe disciplinary action up to and including termination from the agency.

It is my understanding that you have accepted the recommended disciplinary action of a five (5) day suspension without pay. However, under the provisions of Merit Rules 455:10-3-7, you have twenty (20) calendar days from the date you receive this notice to file an appeal, if you desire to do so. If you elect to appeal, this appeal must be in writing and must be made to the Oklahoma Merit Protection Commission, 3545 N.W. 58th Street, Suite 360, Oklahoma City, OK 73112, on the appeal form provided you with this notice.



KEVIN L. WARD
Commissioner

KLW/dh

cc: Legal Division
Human Resources
Chief Van M. Guillotte
Captain Jess Henry